

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GREGORY HARDY,

Plaintiff,

Case No. 02-40255

vs.

HONORABLE PAUL V. GADOLA
UNITED STATES DISTRICT JUDGE

ROBERT VIETA,

Defendant.

HONORABLE STEVEN D. PEPE
UNITED STATES MAGISTRATE JUDGE

_____ /

ORDER

On October 4, 2002, Plaintiff Gregory Hardy filed a *pro se* civil rights complaint, pursuant to 42 U.S.C. §1983, alleging assault, harassment, intimidations and violations of the First and Eighth Amendment. All pretrial proceedings have been referred pursuant to 28 U.S.C. §636(b)(1)(A) and (B).

Following several failed efforts of Plaintiff to obtain discovery, on October 31, 2006, it was ordered that Defendant Vieta produce or authorization the production for an *in camera* inspection of:

1. those portions of Defendant Vieta's personnel file that reflect any complaints, personnel action, suspensions, written reprimands or other similar information;

* * * *.

(Dkt. # 138).

Defendant Vieta's personnel files were produced and were reviewed. It was determined that there was no record of any prior assaultive behavior regarding any inmate. It was ordered that

Defendant produce only disciplinary action in his personnel file that was potentially relevant under Fed. R. Evid. 608 (b)(1) concerning Defendant Vieta's character for untruthfulness. A 1998 Employee Disciplinary Report relating to a March 24, 1998, incident and its related documents were produced to Plaintiff.

Upon reviewing the documentation Plaintiff filed a motion for clarification because, he argued, the disciplinary report indicated Defendant had been suspended in April 1997 for an incident related to "Work Rule #1 which is directly related to humane treatment".

Because the undersigned returned Defendant's personnel records to Defendant and is unable to determine whether the incident report related to the April 1997 suspension was reviewed and deemed irrelevant, an order was issued requiring Defendant to respond to Plaintiff's motion for clarification. Inexplicably, Defendant's response does not address the issues presented in Plaintiff's motion for clarification, but rather simply states that the motion should be denied because it only reiterates the issues presented in an objection Plaintiff filed.¹

Perhaps the order to respond should have been clearer. Defendant is ordered to produce, on or before April 13, 2007, for an *in camera* inspection, the documentation relating to his April 1997 suspension. The undersigned will review the documentation to determine if should be produced to Plaintiff.

SO ORDERED.

Dated: March 30, 2007
Flint, Michigan

s/Steven D. Pepe
United States Magistrate Judge

¹ While a separate issue relating to the production of Defendant's criminal record was presented in Plaintiff's objection, the issue regarding production of documentation related to the April 1997 suspension was not presented in Plaintiff's objection.

Certificate of Service

I hereby certify that on March 30, 2007, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following: Kevin R. Himebaugh, and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participant: Gregory Hardy, #252393, Ionia Maximum Correctional Facility, 1576 W. Bluewater Hwy., Ionia, MI 48446.

s/ James P. Peltier
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